

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3461 of 1997

For Approval and Signature:

Hon'ble THE ACTING CJ R.A.MEHTA

and

MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

NARANBHAI CHHIPKABHAI PATEL

Versus

TAX RECOVERY OFFICER

Appearance:

MR KH KAJI for Petitioners

MR MANISH R BHATT for Respondent No. 1, 2, 3

CORAM : THE ACTING CJ R.A.MEHTA and

MR.JUSTICE N.N.MATHUR

Date of decision: 25/07/97

ORAL JUDGEMENT : (Per R.A. Mehta, Actg CJ)

Rule. Shri M.R. Bhatt, learned advocate waives service of the rule. Notice for settling the sale proclamation was issued on 4th February 1997 and the proclamation was itself issued on the very day, i.e. 4th February 1997! Admittedly, this notice came to be served

on 11th February 1997. Therefore, the proclamation was settled and issued without hearing the petitioners. The notice and the proclamation were in the name of the deceased assessee, who expired two decades ago and his heirs have filed the present petition in view of the infirmities in the proclamation.

2. The impugned proclamation requires to be set aside. It is agreed by the petitioners that in pursuance of the notice for settling the sale proclamation they will appear before the Tax Recovery Officer, Valsad, on 20th August 1997 at 11.00 AM and the Tax Recovery Officer can proceed in accordance with law from that stage and there will not be any necessity of issuance of fresh notice to the petitioners as far as the impugned proclamation of sale dated 4th February 1997 is concerned qua the property of the petitioners. The sale proclamation dated 4th February 1997 is quashed and set aside. Rule is made absolute accordingly. No order as to costs.

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